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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/670,625

09/25/2003

Daniel Triplett

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06/05/2009

Rutan & Tucker, LLP.

611 ANTON BLVD

SUITE 1400

COSTA MESA, CA 92626

EXAMINER

LANDRY II, GERALD ERNEST

ART UNIT

PAPER NUMBER

3763

MAIL DATE

DELIVERY MODE

06/05/2009

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/670,625	Applicant(s) TRIPLETT ET AL.	
	Examiner GERALD LANDRY II	Art Unit 3763	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 04 May 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-23 is/are pending in the application.
- 4a) Of the above claim(s) 12-14 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-11 and 15-23 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 25 September 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

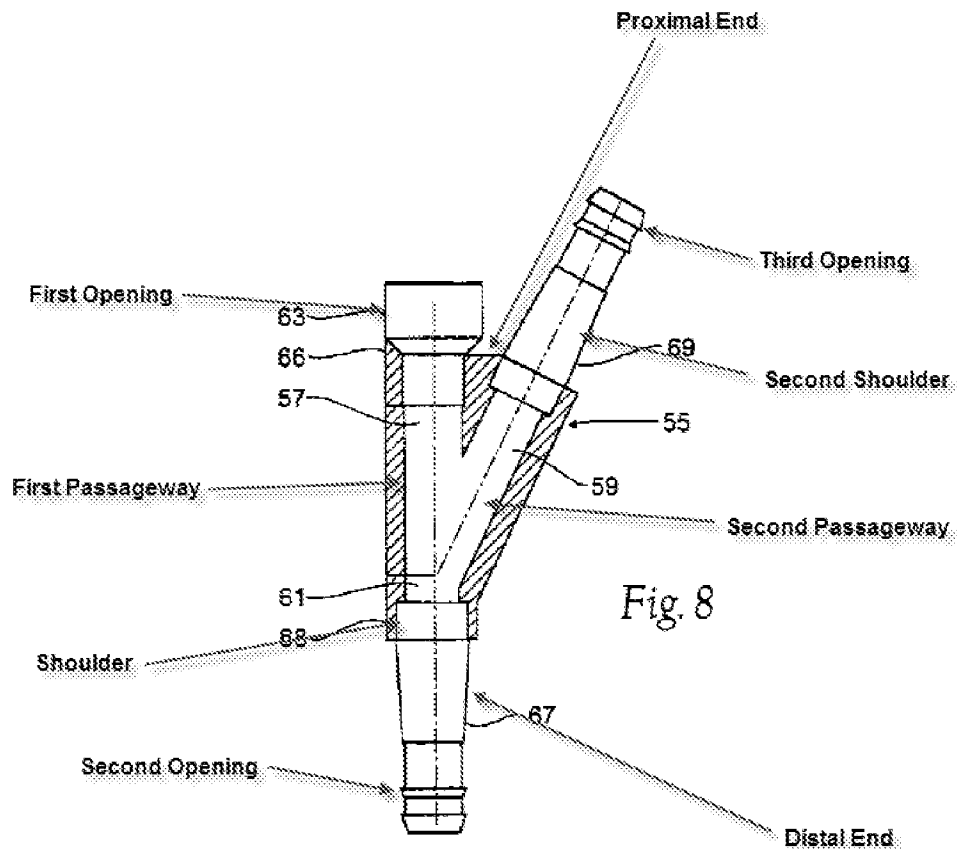
2. Claims 1, 2, and 4-7 are rejected under 35 U.S.C. 102(e) as being anticipated by U.S.

Patent No. 6,969,379 to Aboul-Hosn et al.

Regarding claims 1, 2, and 4-7, Aboul-Hosn teaches a body, having a proximal end and distal end, comprising: a first passageway extending from a first opening to a second opening and configured to receive an inner lumen of a coaxial catheter; a shoulder on an outer surface of the distal end, positioned proximate the first opening, wherein the shoulder is configured to abut a wall of an outer lumen of a coaxial catheter; and a second passageway extending from the first passageway to a third opening (**refer to marked-up figure below**); wherein the second passageway forms an angle with the first passageway in the range of approximately 15 to 60 degrees (**refer to marked-up figure below**); wherein an outer surface distal of the shoulder is tapered (**refer to marked-up figure below**); wherein the first passageway has a smaller diameter proximal to the point at which the second passageway connects thereto (**refer to marked-up figure below**); wherein a diameter of the second passageway increases at a point adjacent the third opening (**refer to marked-up figure below**. Also note that this is a very broad

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limitation); further comprising a second shoulder on an outer surface of the proximal end positioned proximate the third opening, wherein the second shoulder is configured to abut a wall of an extension tube (refer to marked-up figure below);



3. Claims 8-11, and 15-23 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. 5,395,316 to Martin.

Regarding claims 8-11, and 15-23, Martin teaches a coaxial catheter comprising at least two lumens; at least two extension tubes; and an insert positioned between the catheter and the

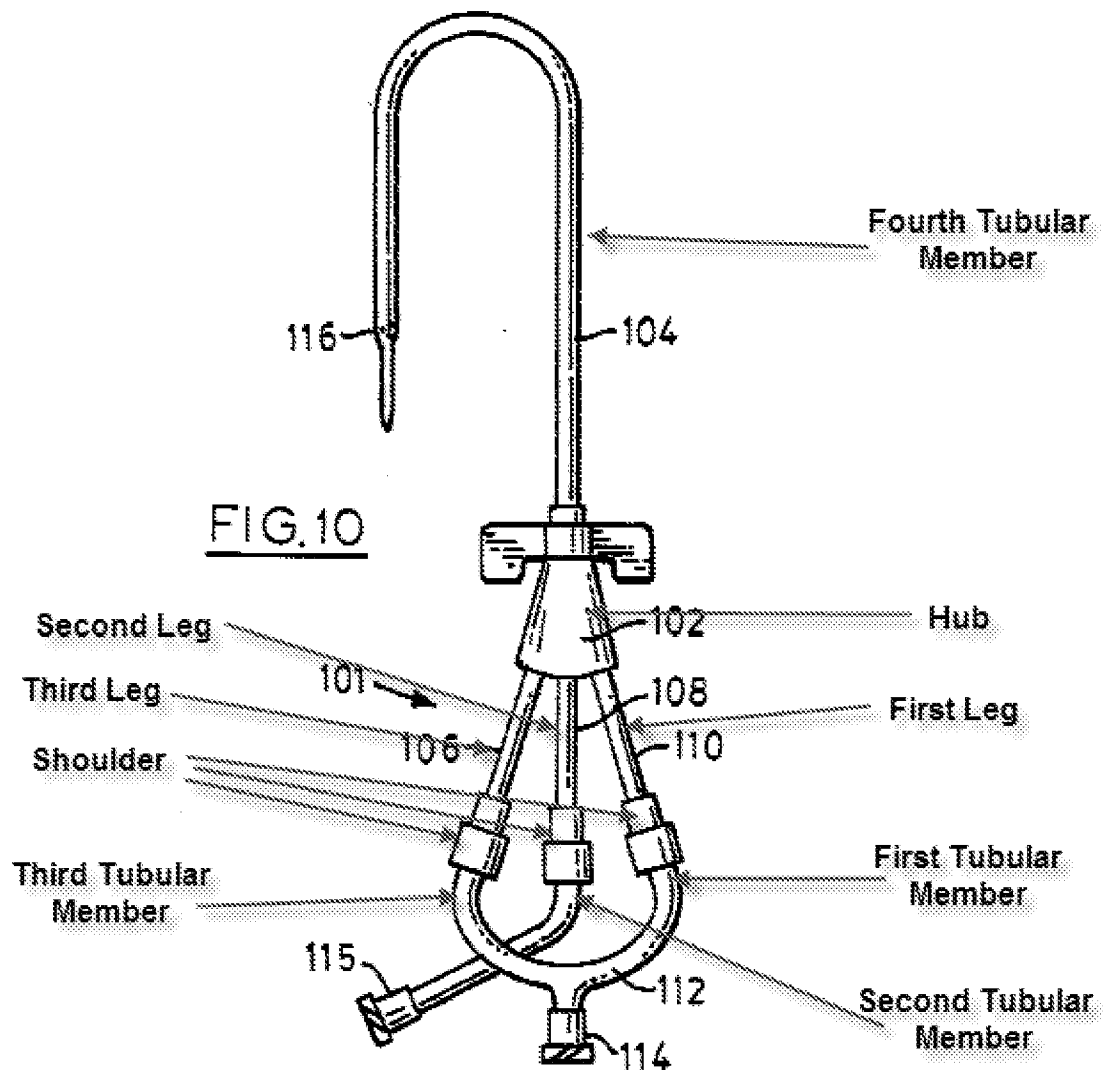
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tubes comprising: a body, having a proximal end and distal end, comprising: a first passageway extending from a first opening to a second opening and configured to receive an inner lumen of the coaxial catheter; a shoulder on an outer surface of the distal end, positioned proximate the first opening, wherein the shoulder is configured to abut a wall of an outer lumen of the coaxial catheter; and a second passageway extending from the first passageway to a third opening; wherein the inner lumen of the coaxial catheter is positioned within the first passageway of the body and the distal end of the body is positioned within the outer lumen of the coaxial catheter, the shoulder abutting a wall thereof; wherein a first of the extension leg tubes is connected to the inner lumen of the coaxial catheter and a second of the extension tubes is connected to the second opening of the body; further comprising a hub molded over a proximal end of the coaxial catheter and the body, wherein the body is completely encapsulated by the hub (**refer to figure 10 and column 5 line 52 – column 6 line 5**); a first generally tubular member; an insert including a first leg positioned in a proximal opening of the first member; a second generally tubular member positioned coaxially in a lumen of the first member and a first channel of the insert; and a hub disposed over the insert and a proximal end of the first member; the first leg extending from a distal end of the insert and terminating at a shoulder disposed on an outer surface of the insert; a surface of the first member proximal end contacting the shoulder; wherein the first leg has a tapered outer surface; the insert including a second channel in fluid communication with the first channel and the first member lumen; wherein a longitudinal axis of the second channel forms an angle with a longitudinal axis of the first channel in the range of about 15 degrees to about 60 degrees; further comprising a third generally tubular member having a distal end adjacent a first proximal insert opening, the third member in fluid

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communication with the second member; further comprising a fourth generally tubular member, the insert including a second leg positioned in a distal opening of the fourth member; wherein the hub is disposed over the distal ends of the third and fourth members **(refer to marked-up figure below. Note that the examiner has specifically labeled the figure for the courtesy of clarification. Other constructions are possible from the labeled elements (i.e. first leg may be construed as second or third leg).**

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Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

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(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claim 3 is rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 6,969,379 to Aboul-Hosn et al.

Regarding claim 3, Aboul-Hosn teaches all of the limitations of claim 1, but does not explicitly teach wherein the body is comprised of a material selected from the group consisting of plastic, stainless steel, titanium, nitinol and epoxy. However, it would have been obvious to one having ordinary skill in the art at the time the invention was made to provide a body comprised of a material selected from the group consisting of plastic, stainless steel, titanium, nitinol and epoxy, since it has been held to be within the general skill of a worker in the art to select a known material on the basis of its suitability for the intended use as a matter of obvious design choice. In re Leshin, 125 USPQ 416.

Conclusion

6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Please refer to form PTO-892.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to GERALD LANDRY II whose telephone number is (571)270-7409. The examiner can normally be reached on M-F, 7:30 am - 5:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nicholas Lucchesi can be reached on 571-272-4977. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/GEL/

Examiner, Art Unit 3763

/Nicholas D Lucchesi/

Supervisory Patent Examiner, Art Unit 3763